

Appendix A:
**Proposed Amendments to
Regulation 18401**

1 Amend 2 Cal. Code Regs. section 18401 as follows:

2 **18401. Required Recordkeeping for Chapter 4.**

3 (a) Maintenance of Documents

4 It shall be the duty of each candidate, treasurer and elected officer to maintain
5 such detailed accounts, records, bills, and receipts as shall be necessary to prepare
6 campaign statements and to comply with the provisions of Government Code, Title 9,
7 Chapter 4 (Sections 84100, et seq.). The duty includes maintenance of detailed
8 information and original source documentation, as follows:

9 (1) For a contribution received or other receipt of less than \$25, or an expenditure
10 made of less than \$25:

11 (A) The accounts and records shall contain a continuous computation of
12 campaign account balances, and also shall include a listing reflecting the dates and daily
13 totals of such contributions, other receipts, or expenditures on the dates of such
14 contributions, other receipts or expenditures.

15 (B) The original source documentation shall consist of all bank statements, check
16 registers, check stubs, bank or passbooks, and any other records reflecting a continuous
17 computation of campaign account balances in any savings or checking account, money
18 market account, certificate of deposit, credit card account, or any other campaign
19 account, in any bank or other financial institution.

20 (2) For a contribution received or other receipt of \$25 or more, but less than
21 \$100:

22 (A) The accounts and records shall contain all information required in
23 subdivision (a)(1)(A) above, and shall include the date of each contribution or other

1 receipt, the amount, and the full name and street address of the contributor or the source
2 of the other receipt. In the case of a contribution, the accounts and records also shall
3 contain the cumulative amount received from the contributor and shall specify whether
4 the contribution is monetary or nonmonetary. In the case of a nonmonetary contribution,
5 the fair market value must be recorded, along with a description of the goods or services
6 received. If, however, a contribution is received through an intermediary or agent, as
7 defined in 2 Cal. Code Regs. section 18432.5, the accounts and records shall contain the
8 full name and street address, occupation, and employer (or, if self-employed, the name of
9 the principal place of business) of the intermediary or agent and of the true source of the
10 contribution.

11 (B) The original source documentation shall consist of all items required in
12 subdivision (a)(1)(B) above, and of copies of contributor checks, cashier's checks, money
13 orders, wire transfers, deposit or duplicate deposit slips, and any other documents,
14 reflecting all items deposited, and all deposits made, to any campaign account, in any
15 bank or other financial institution. Original source documentation shall include
16 contributor cards, letters of transmittal and notices received from contributors. In
17 addition, in the case of a nonmonetary contribution, if the contributor has not provided a
18 notice indicating the value of such nonmonetary contribution, the original source
19 documentation shall include a memorandum or other record which describes the method
20 used to determine the value of the goods or services contributed. In addition, in the case
21 of contributions made through wire transfer, credit card transaction, debit account
22 transaction or similar electronic payment option (including those made via the Internet),
23 the original source documentation shall include all credit card receipts, transaction slips

1 or other writings signed by the contributor, credit card vouchers, and other documentation
2 of credit card transactions, including credit card confirmation numbers and itemized
3 transaction reports, as well as any other information collected when debiting the
4 contributor's account. In addition to the requirements above, in the case of contributions
5 made through electronic transactions via the Internet, original source documentation shall
6 include a record of the transaction created and transmitted by the cardholder including the
7 name of the cardholder, the cardholder's address and the card number.

8 (3) For a contribution received of \$100 or more:

9 (A) The accounts and records shall contain all information required in
10 subdivisions (a)(1)(A) and (a)(2)(A) above, and shall include the occupation and
11 employer (or, if self-employed, the name of the principal place of business) of any
12 contributor. Government Code section 85700 requires the return, not later than 60 days
13 from receipt, of any contribution of \$100 or more for which the candidate or committee
14 does not have on file the name, address, occupation and employer of the contributor. 2
15 Cal. Code Regs. section 18570 sets forth additional recordkeeping requirements
16 concerning occupation and employer information.

17 (B) The original source documentation shall consist of all items required in
18 subdivisions (a)(1)(B) and (a)(2)(B) above, and ~~of~~ all communications caused to be sent
19 by the candidate, treasurer, elected officer, or committee in order to secure this
20 information.

21 (4) For an expenditure of \$25 or more, or a series of payments for a single
22 product or service which totals \$25 or more:

1 (A) The accounts and records shall contain the date the expenditure was made
2 (or, for an accrued expense, the date the goods or services were received), the amount of
3 the expenditure, the full name and street address of the payee, and a description of the
4 goods or services for which each expenditure was made. If the person or vendor
5 providing the goods or services is different from the payee, the accounts and records shall
6 contain the same detailed information for such person or vendor. For an expenditure
7 which is a contribution to another candidate or committee, or is an independent
8 expenditure, the records shall contain the cumulative amount of such contributions to, or
9 independent expenditures to support or oppose, each candidate, committee, or ballot
10 measure.

11 (B) The original source documentation shall consist of cancelled checks, wire
12 transfers, credit card charge slips, bills, receipts, invoices, statements, vouchers and any
13 other documents reflecting obligations incurred by the candidate, elected officer,
14 campaign treasurer, or committee, and disbursements made from any checking or savings
15 account, or any other campaign accounts, in any bank or other financial institution.

16 (5) For a loan made or received:

17 (A) The accounts and records shall contain the detailed information set forth in
18 subdivisions (a)(1)(A), (a)(2)(A), and (a)(3)(A) above, and shall include the interest rate
19 and due date, if any, of the loan, and the full name and street address of any guarantor, or
20 any person liable directly, indirectly, or contingently for the loan.

21 (B) The original source documentation shall consist of all promissory notes,
22 extensions of credit, security agreements, loan guarantees and any other documents
23 reflecting the indebtedness.

1 (6) For receipt of an enforceable promise to make a payment, as defined in 2 Cal.
2 Code Regs. section 18216:

3 (A) The accounts and records shall contain the detailed information required for a
4 contribution set forth in subdivisions (a)(1)(A), (a)(2)(A), and (a)(3)(A) above.

5 (B) The original source documentation shall consist of written contracts and any
6 other documents reflecting the enforceable promise to pay.

7 (7) For each mass mailing as defined in Government Code section 82041.5, sent
8 or delivered pursuant to 2 Cal. Code Regs. section 18435:

9 (A) The accounts and records shall contain the date of the mailing, the number of
10 pieces mailed, and the method of postage.

11 (B) The original source documentation shall consist of an original sample of each
12 such mass mailing, caused to be sent by the candidate, treasurer, elected officer, or
13 committee.

14 (8) For all written notices sent to all contributors of \$5,000 or more, pursuant to
15 Government Code section 84105 and 2 Cal. Code Regs. section 18427.1:

16 (A) The accounts and records shall contain the date of each notice and the name
17 and address of the person to whom each notice is sent.

18 (B) The original source documentation shall consist of a copy of each notice sent.

19 (b) Retention of Documents

20 (1) It shall be the duty of each filer, as defined in Government Code section
21 82026, to retain the accounts, records, bills and receipts, and other original source
22 documentation required to be maintained pursuant to subdivision (a) of this regulation.

1 (2) The accounts, records, bills and receipts, and original source documentation
2 shall be retained by the filer for a period of four years following the date that the
3 campaign statement to which they relate is filed. However, in the case of an elected state
4 officer serving a four-year term, the records for campaign statements filed during the first
5 year following his or her election must be kept for five years following the date such
6 statements are filed.

7 COMMENT: In addition to other recordkeeping requirements in the Act or regulations,
8 candidates and committees must keep the records required in 2 Cal. Code Regs. section
9 18428 regarding contributions from affiliated entities. Additional recordkeeping
10 requirements for candidates for the state Legislature and statewide elective office are
11 found in 2 Cal. Code Regs. section 18536 concerning the transfer and attribution of
12 contributions, and 2 Cal. Code Regs. section 18540 concerning the allocation of
13 expenditures to the primary, general, special or runoff election for purposes of the
14 voluntary expenditure ceilings.

15 NOTE: Authority cited: ~~Sections~~ Section 83112, Government Code.
16 Reference: Sections 84104, 84100-84400 and 85700, Government Code.

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